

**EISENBERG, ROTHWEILER,  
WINKLER, EISENBERG & JECK, P.C.**

**By: Stewart J. Eisenberg, Esquire  
Dino Privitera, Esquire**

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**Attorneys for Plaintiff**

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Melvin J. Novak

*Plaintiff*

v.

Boy Scouts of America

and

Chester County Council, Boy Scouts of America

and

Church of Jesus Christ of Latter-day Saints

and

Valley Forge Stake, Marshallton 2nd Ward, of  
the Church of Jesus Christ of Latter-day Saints

and

Vance P. Hein

*Defendants*

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COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY

Civil Action - Law

December Term, 2012

No.:

JURY TRIAL DEMANDED

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**CIVIL ACTION COMPLAINT**

AND NOW COMES the Plaintiff, Melvin J. Novak, by and through his legal counsel,  
Stewart J. Eisenberg, Esquire and Dino Privitera, Esquire of the law firm of EISENBERG,  
ROTHWEILER, WINKLER, EISENBERG & JECK, P.C., and avers the following:

## **I. INTRODUCTION**

1. This Complaint is based on the childhood sexual abuse of Plaintiff Melvin J. Novak caused by the negligent, willful, wanton, reckless, and tortious acts and omissions of the Boy Scouts of America, the Chester County Council, Boy Scouts of America, the Church of Jesus Christ of Latter-day Saints, the Valley Forge Stake, Marshallton 2nd Ward of the Church of Jesus Christ of Latter-day Saints, and Vance P. Hein, formerly a BSA Scoutmaster and Youth Leader of the LDS Church.

2. The Boy Scouts of America (hereinafter sometimes referred to “BSA”) is the largest youth organization in the United States with approximately 5,000,000 members. BSA was chartered in 1910 by an act of Congress. An estimated 20% of American boys have had contact with scouting, either as members or by attending Scout functions.

3. Throughout its history, the BSA has consistently held itself out to the public as a “moral and safe” environment for boys to participate in healthy outdoor activities and to be given proper guidance and instruction. Millions of parents and scouts have placed their trust in the BSA.

4. Paradoxically, the BSA promotes the wholesomeness of its programs while knowing that since the 1940s, it has been secretly removing Scoutmasters for child sexual abuse at an alarming rate, which in the 1970s reached an average of one every three days. Its own records demonstrate that it has long known that Scouting attracts pedophiles in large numbers and that Scouts, far from being safe, are at the heightened risk of sexual abuse by child molesters.

5. The Church of Jesus Christ of Latter Day Saints (hereinafter sometimes referred to as “LDS Church”) is a large religious denomination which likewise promotes the ideals of moral

purity and rectitude. The LDS Church has actively associated itself with BSA, including, as here, active sponsorship and control of local BSA Scout troops.

6. The LDS Church has accepted the BSA as a key program within the Church. The LDS Church is one of the largest chartering organizations for scout troops in the United States. Only the LDS Church has officially adopted Scouting as a church youth program. In 1913, the LDS Church became the first church partner of BSA. LDS Scout units are designated for LDS youth and operate differently than non-LDS Scout units.

## **II. PARTIES**

7. Plaintiff Melvin J. Novak is an adult citizen who currently resides in the State of Delaware.

8. Plaintiff's causes of action set forth herein are timely under 42 Pa.C.S. §5533(b)(2)(I), which extends the statute of limitation until thirty (30) years of age for commencement of civil actions arising from childhood sexual abuse where the individual was under eighteen (18) years of age at the time the cause of action accrued. Plaintiff Melvin Novak was born on December 29, 1983 and the sexual abuse underlying this Complaint occurred while he was in his minority. Plaintiff commenced this matter by filing this Complaint on December 12, 2012, at which time Plaintiff Melvin Novak was twenty-eight (28) years of age.

9. At all times relevant hereto, Plaintiff Melvin Novak was a young boy living with his parents in New London, Pennsylvania and was enrolled in the BSA Scouting programs and was also an active member in the Valley Forge Stake, Marshallton 2nd Ward of the Church of Jesus Christ of Latter-day Saints.

10. At all times relevant hereto, Defendant Boy Scouts of America was and is a congressionally chartered corporation with a principle place of business at 1325 West Walnut Hill Lane, Suite 406, Irving, Texas. BSA is authorized to do business and is doing business in the Commonwealth of Pennsylvania through various local and regional Boy Scout organizations and councils.

11. Defendant Boy Scouts of America operates, promotes, oversees, guides, sets standards, and establishes policies, protocols, and procedures for youth organizations nationally through various local, state and regional organizations, including those of Boy Scout Troop 84 of the Chester County Council, Boy Scouts of America.

12. Defendant Boy Scouts of America develops programs, sets and maintains quality standards in training, leadership selection, uniforms, registration records, literature development, and advancement requirements for youth organizations nationally through various local, state and regional organizations, including those of Boy Scout Troop 84 of the Chester County Council, Boy Scouts of America.

13. Defendant Boy Scouts of America grants charters to local councils and local organizations to operate and conduct Boy Scout activities within their geographic areas, including Boy Scout Troop 84 of the Chester County Council, Boy Scouts of America.

14. At all times relevant hereto, Defendant Chester County Council, Boy Scouts of America (hereinafter sometimes referred to as "Chester County Council") was and is a Pennsylvania non-profit corporation with a business address of 504 South Concord Road, West Chester, PA 19382.

15. Upon information and belief, Defendant Chester County Council was and is a charter organization of the Boy Scouts of America.

16. Defendant Chester County Council, as a charter organization of the Boy Scouts of America, administers the programs, guidelines, and policies of the Defendant Boy Scouts of America in and around the Chester County, Pennsylvania region.

17. The Boy Scouts of America and the Chester County Council Defendants will be referred hereinafter collectively as the “Boy Scout Defendants.”

18. At all times relevant hereto, the Boy Scout Defendants acted by and through their duly authorized agents, representatives, volunteers, servants and/or employees.

19. At all times relevant hereto, upon information and belief, Defendant the Church of Jesus Christ of Latter-day Saints was and is a religious organization or corporation sole incorporated under the laws of the State of Utah with its principle place of business or operation at 50 East North Temple Street, Salt Lake City, Utah 84150. The LDS Church is authorized to do business and is doing business in the Commonwealth of Pennsylvania through local and regional church congregations called “wards.”

20. At all times relevant hereto, upon information and belief, Defendant Valley Forge Stake, Marshallton 2nd Ward of the Church of Jesus Christ of Latter-day Saints (hereinafter sometimes referred to as the “Marshallton 2nd Ward”) was and is a Pennsylvania non-profit religious corporation with a business address at 1443 Telegraph Road, West Chester, PA 19380.

21. At all times relevant hereto, Defendant the Church of Jesus Christ of Latter-day Saints was responsible for, and controlled, the activities, maintenance, supervision, structure,

management, organization, and operation of the Marshallton 2nd Ward, including the conduct and activities of its religious leaders and members.

22. The Church of Jesus Christ of Latter Day Saints and the Marshallton 2nd Ward shall be referred to hereinafter collectively as the “LDS Church Defendants.”

23. At all times relevant hereto, the LDS Church Defendants acted by and through their duly authorized agents, representatives, volunteers, servants and/or employees.

24. As part of the LDS Church’s religious mission, the LDS Church Defendants authorized and selected Youth Leaders to educate and minister to LDS families and their children in the congregation known as Marshallton 2nd Ward.

25. At all times relevant hereto, the Boy Scout Defendants operated various programs for young boys, including the then minor-Plaintiff Melvin Novak and authorized, approved, ratified and selected adults to serve as Scoutmasters.

26. The Boy Scout and LDS Defendants, acting by and through their duly authorized agents, jointly operated and/or controlled a Boy Scout Troop in Chester County, Pennsylvania for the benefit of the Marshallton 2nd Ward, known as Troop 84.

27. At all times relevant hereto, then minor-Plaintiff Melvin Novak was a member of Boy Scout Troop 84 of the Chester County Council.

28. At all times relevant hereto, Defendant Vance P. Hein (“Hein”) was a Youth Leader of the Marshallton 2nd Ward and a Scoutmaster for Troop 84, and was selected, accepted, ratified, approved and authorized by the Boy Scout and LDS Church Defendants to serve in these capacities for the purpose of educating and ministering to LDS families and their children, including then minor-Plaintiff Melvin Novak, and for the purpose of instructing and training

young boys, including then minor-Plaintiff Melvin Novak, in morality, patriotism and various life skills.

29. At all times relevant hereto, Defendant Hein served and acted as a duly authorized and ratified agent, employee, servant, representative, and/or volunteer of the Boy Scout and LDS Church Defendants, and was subject to the authority, dominion and control of the Boy Scout and LDS Church Defendants.

30. At all times relevant hereto, for the purpose of furthering his duties as a Youth Leader and Scoutmaster, Defendant Hein sought and gained the then minor-Plaintiff Melvin Novak's trust, friendship, admiration and obedience. As a result, then minor-Plaintiff Melvin Novak was conditioned to comply with Defendant Hein's direction and to look to him as an authority figure.

31. At all times relevant hereto, using the power, authority and trust of his positions as a Youth Leader and Scoutmaster, and availing himself of the Boy Scout and LDS Church Defendants' representations to parents and scouts that the BSA was a moral and safe place for young boys, Defendant Hein enticed, induced, directed, coerced, and forced then minor-Plaintiff Melvin Novak to engage in deviant sexual acts with him.

32. At the time of his molestation and sexual assault of then minor-Plaintiff Melvin Novak, Defendant Hein was an adult residing in Downingtown, Pennsylvania.

33. Defendant Hein, Inmate No.: KT7529, is currently incarcerated in Pennsylvania at SCI-Graterford.

### **III. FACTS**

34. BSA knew for decades that sexual predators of boys had infiltrated scouting. BSA knew or should have known the danger that pedophiles presented to Boy Scouts and either knew or should have known the danger that Defendant Hein presented to children, including Plaintiff Novak, but instead ignored that danger and permitted him and other pedophiles in Scouting to prey upon young boys, including then minor-Plaintiff Melvin Novak.

35. Since approximately 1919, the BSA has maintained a group of files known as red files, perversion files or ineligible volunteer files.

36. BSA's own internal "ineligible volunteer files" collected and maintained in secrecy for 70 years, revealed that Scouting is a "pedophile magnet," and that removed pedophiles were often able to reenter Scouting in other locations.

37. BSA's confidential records demonstrate both its awareness of Scouting's attraction to pedophiles, but also the distinctive characteristics of Scouting that rendered Scouts particularly susceptible to pedophiles.

38. BSA knew or should have known that Scouting attracts pedophiles, in part, because (a) Scouting provides the pedophile access to boys alone and away from their parents in secluded settings like campouts and overnight hikes; (b) Scouting provides opportunities for the pedophile to seduce a boy by getting him in situations where the boy has to change clothing or spend the night with him; (c) the pedophile Scout leader can, depending on the pedophile's age preference, volunteer for and be sure to have access only to boys of a certain age; (d) BSA conditions boys to the concept of strict obedience to the Scout leader in a bonding mechanism that pedophiles crave; (e) BSA promotes the idea of secret ceremonies, rituals and loyalty oaths, all of



which facilitate the pedophile's efforts to keep his victims silent and compliant; (f) at the time of the abuse, BSA conducted no criminal background checks on these volunteers or even suggested such was advisable.

39. BSA was aware that it had ejected thousands of pedophiles from its ranks of leadership in local Scout troops and failed to inform the Scouts and their parents of that fact.

40. BSA knew or should have known that if they advised parents of this statistical phenomenon, parents might well remove their boys from Scouting, thus depriving BSA of millions of dollars of income.

41. BSA knew or should have known that its "ineligible volunteers" system of keeping track of pedophiles infiltrating its ranks and attempting to eliminate them did not function as intended, it was flawed, and in many cases ineffective. Despite that knowledge, BSA did nothing to educate its Scouts and their parents of the ineffectiveness nor the enormity of the pedophile problem, nor to take action to correct its screening and/or educational system.

42. Defendant Hein was a Scoutmaster of the Boy Scout Troop 84 in Chester, Pennsylvania for the benefit of the Marshallton 2nd Ward. Defendant Hein was also a Youth Leader within the LDS Church, specifically the congregation of the Marshallton 2nd Ward. In this capacity, Hein exercised a position of religious authority over Plaintiff Novak with the knowledge and consent of the Boy Scout and/or LDS Church Defendants.

43. The Chester County Council, Boy Scout Troop 84, was controlled and co-sponsored by the Boy Scout and LDS Church Defendants.

44. At all times relevant hereto, virtually all of the members of Defendant Hein's local troop were members of the Marshallton 2nd Ward.

45. Upon information and belief, all of the BSA meetings of Defendant Hein's Troop were also considered LDS Church meetings.

46. Serving as a BSA Scoutmaster and LDS Church leader, Defendant Hein actively groomed young boys under his charge for later sexual molestation, including the then minor-Plaintiff Melvin Novak.

47. Plaintiff Melvin Novak was raised in a devout LDS family, was baptized, confirmed and regularly attended LDS functions on a daily and weekly basis as a member of the Marshallton 2nd Ward congregation.

48. The Boy Scout and/or the LDS Defendants knew or should have known that Defendant Hein posed a sexual threat to young boys, including then minor-Plaintiff Melvin Novak.

49. Defendant Hein became a Scoutmaster and Youth leader in the early 1990s at his Church, the Marshallton 2nd Ward congregation of the LDS Church.

50. During the time that Plaintiff was a minor, Defendant Hein molested, sexually, physically, mentally, psychologically and emotionally abused then minor-Plaintiff Melvin Novak.

51. Beginning when Plaintiff was about 14 years old, sometime in approximately 1998, Defendant Hein began to inappropriately role play with the then minor-Plaintiff Melvin Novak. For example, Defendant would tell Plaintiff: "A friend is in trouble. What would you do to help save your friend? Would you get undressed if that was necessary to save your friend?"

52. Defendant Hein used role playing as a grooming device to sexually assault Plaintiff.

53. The molestation and abuse by Hein of Plaintiff included groping and fondling of Plaintiff's genitals and other lewd and lascivious acts.

54. Defendant Hein made Plaintiff strip naked with his hands fixed behind his back and hit the Plaintiff with a stick.

55. Defendant Hein also dripped hot wax on the Plaintiff's penis and made the Plaintiff masturbate in front of him.

56. Defendant Hein also tied Plaintiff's arms and ankles to a bed while naked and made Plaintiff watch pornographic movies.

57. Defendant also squeezed Plaintiff's testicles to inflict pain on the Plaintiff.

58. Defendant Hein manipulated Plaintiff, who was of tender years, into believing that engaging in such acts would enable Plaintiff the privilege of joining a "brotherhood."

59. The sexual abuse and assault of Plaintiff occurred from approximately June 1998 continuing through approximately September 1999.

60. These sexually abusive incidents described above occurred at Hein's home, parks and fields, Scout meetings, Scout camps, and during a "special" trip to Canada.

61. Defendant Hein told Plaintiff and his family that he worked as an IT supervisor for a "Canadian entertainment company," referred to as OnlineCasino.com. The company was purportedly based in Canada.

62. In or about the Spring of 1999, Defendant Hein asked Plaintiff's parents for permission for Plaintiff to accompany him on a business trip to Montreal, Canada. Defendant Hein told Plaintiff's parents that Plaintiff would learn computer software and programming skills.

63. Based on these false representations, deceptions and lies, Plaintiff and his parents

agreed to have Plaintiff accompany Defendant Hein on the trip, where Defendant Hein sexually assaulted Plaintiff, as described above.

64. After Plaintiff had returned from the trip to Canada, Plaintiff told his parents that Defendant Hein had sexually assaulted him.

65. Plaintiff's parents subsequently reported Defendant Hein's sexual assault to the police.

66. After a police investigation, Defendant Hein admitted his crimes against the then-minor, Plaintiff Melvin Novak.

67. Defendant Hein subsequently pleaded guilty to indecently assaulting the then-minor-Plaintiff, Melvin Novak.

68. In approximately May 2000, Defendant Hein was sentenced to 15 years of probation for his crimes of indecent assault and corruption of a minor.

69. In September 2011, while on probation for his sexual assault of Plaintiff, Defendant Hein was arrested for possession of child pornography.

70. In or about May 2012, Defendant Hein entered a guilty plea to possession of child pornography.

71. In or about August 2012, Defendant Hein was sentenced to a prison term of 15 to 30 years.

72. As a convicted felon deemed to be a sexually violent predator by the State's Sexual Offender's Assessment Board, Defendant Hein will be subject to the community notification requirements required under Megan's Law.

73. Defendant Hein's above-described acts constitute conduct in violation of the Pennsylvania Criminal Code.

74. Defendant Hein occupied a position of authority, respect and trust over Plaintiff in that Hein was an adult, a LDS Youth Leader and BSA Scoutmaster.

75. Plaintiff felt great trust, faith and confidence in Defendant Hein.

76. Plaintiff suffered profound emotional and psychological harm as a result of Hein's sexual molestation, including but not limited to alcoholism, substance abuse, anxiety, depression, and/or panic attacks in his adult life.

77. Defendant Hein destroyed Plaintiff's ability to have a normal, happy life. Without the active participation of the Boy Scout and LDS Church Defendants, Hein could not have committed his crimes and inflicted profound psychological injuries against then minor-Plaintiff Melvin Novak.

78. The Boy Scout and LDS Church Defendants authorized Hein to serve as a BSA Scoutmaster and Youth Leader and Hein served as such for years prior to his sexual molestation of then minor-Plaintiff Melvin Novak.

79. The Boy Scout and LDS Church Defendants thus knew or had reason to know, or were otherwise on notice, of the unlawful sexual conduct of Hein, and failed to take reasonable steps, and to implement reasonable safeguards to avoid acts of unlawful sexual conduct by him.

80. The Boy Scout and LDS Church Defendants failed to prevent or avoid Hein's placement in a function or environment to prevent one-on-one contact with adolescent and pre-adolescent boys as an inherent part of that function or environment.

81. The Boy Scout and LDS Church Defendants had a special relationship with scouts and other boys, including then minor-Plaintiff Melvin Novak, who participated in scouting programs.

82. The Boy Scout and LDS Church Defendants had a special relationship with adult Youth Leaders and Scoutmasters who they approved and authorized to work with children, including then minor-Plaintiff Melvin Novak, whose parents entrusted him to their care.

83. At all times relevant hereto, Defendant Hein utilized physical, emotional, and spiritual force and suasion to impose his immoral will upon the then-minor Plaintiff in order to commit grievous, unspeakable acts of sexual abuse upon the person of then-minor Plaintiff, all of which acts constitute flagrant abuse of the symbolism, power, and authority of his position as a Youth Leader and Scoutmaster.

84. Upon information and belief, by the time that Defendant Hein began his predacious sexual activity upon then-minor Plaintiff, the Boy Scout and LDS Church Defendants knew or should have known of Defendant Hein's propensity for such conduct, yet they did not provide to young boys or their families, including Plaintiff, any warning of, or safeguard against, Defendant Hein's appetite for such harmful, illegal, and immoral conduct.

85. Upon information and belief, at all times relevant hereto, the Boy Scout and LDS Church Defendants, knew or should have known of the sexually predacious acts of Defendant Hein upon Plaintiff. Despite this knowledge, the Boy Scout and LDS Church Defendants, exerted no supervisory control over, and took no disciplinary action against, Defendant Hein in order to prevent him from committing further harmful, illegal, and immoral acts upon then-minor Plaintiff.

86. Upon information and belief, directly contrary to their sacred obligation to watch over and protect young boys and members of their scouting programs and religious congregations, including then-minor Plaintiff, the Boy Scout and LDS Church Defendants, as well as Defendant Hein, entered upon, adopted, and/or followed a course of action to conceal from young boys and their families, and civil and criminal authorities, the harmful, illegal, and immoral acts Defendant Hein committed upon then-minor Plaintiff Melvin Novak.

87. Upon information and belief, the course of action entered upon, adopted, and/or followed by the Boy Scout and LDS Church Defendants, and Defendant Hein, was part of and consistent with their pattern of concealing the harmful, illegal, and immoral acts of other pedophilic Youth Leaders and Scoutmasters. This pattern included, but was not limited to, concealing and/or destroying evidence of the misconduct of pedophilic Youth Leaders and Scoutmasters.

88. The Boy Scout and LDS Church Defendants deliberately withheld information from scouts and their parents, including then minor-Plaintiff Melvin Novak and his parents. The withheld information included: the true nature and extent of pedophilia in scouting; the warning signs of abuse in scouting, of which BSA and/or the LDS Church were aware; and the methods pedophiles had been using to gain access to scouts, to groom them for abuse, and to keep them silent. Defendants' timely communication of this information would have enabled scouts, including then minor-Plaintiff Melvin Novak, to protect himself from sexual abuse by pedophiles in scouting.

89. Then-minor Plaintiff Melvin Novak did not know, nor did they have any reason to know, that the Boy Scout and LDS Church Defendants deliberately concealed Defendant Hein's proclivity for and history of committing sexual abuse, thereby placing him at risk of sexual abuse.

90. Upon information and belief, the conspiracy among the Boy Scout and LDS Church Defendants, and Defendant Hein, to avoid civil and criminal liability for the harmful, illegal, and immoral acts of their Scoutmasters and Youth Leaders, including Defendant Hein, existed before Plaintiff's sexual assault at the hands of Defendant Hein.

91. Had BSA and/or LDS Church notified or advised Plaintiff; his parents; or civil authorities, or otherwise been candid with the scouting public regarding the pervasiveness of sexual abuse of boys by an alarmingly large percentage of BSA's adult scout leaders, then minor-Plaintiff Melvin Novak would either (1) not have joined the BSA or (2) not been allowed to join BSA by his parents.

92. Had BSA and/or LDS Church informed Plaintiff of the nature and frequency of the risks of abuse by adult scout leaders, Plaintiff would have taken steps to protect himself from the grooming and sexual abuse to which his adult Scoutmaster and Youth Leader subjected him.

93. As a direct and proximate result of the negligence, breaches of duty, misconduct and resulting molestation and sexual assault of then minor-Plaintiff Melvin Novak as described herein, Plaintiff Melvin Novak has suffered and continues to suffer a loss of his enjoyment of life, physical injury, severe emotional distress, severe depression, anxiety, embarrassment, pain and suffering, humiliation, loss of vocation and loss of earnings, loss of faith, and his ability to live a normal life, and has incurred, or will incur, medical, hospital, and psychiatric expenses in connection therewith.



**COUNT I**  
**Fraudulent Concealment and Estoppel**  
**(Plaintiff Melvin Novak v. All Defendants)**

94. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein

95. Congress founded BSA in the United States in 1910.

96. Since 1910, hundreds of millions of parents have entrusted their sons to BSA's care, guidance, and instruction.

97. Since its inception, BSA aggressively marketed the wholesomeness and safety of its programs to the American public.

98. Simultaneously, BSA fraudulently concealed from scouts, their parents, and the American taxpayer BSA's certain knowledge that pedophiles had been infiltrating BSA in large numbers for many years. BSA fraudulently concealed said information from Plaintiff and his parents. BSA also misrepresented to scouts, their parents, and the American taxpayer that scouts were safe in scouting programs when, in fact, scouts were at an unreasonably heightened risk of sexual abuse by adult scout leaders. BSA made said misrepresentations to Plaintiff and his parents.

99. BSA's internal records, known as the "Ineligible Volunteer" files (hereinafter "the I.V. files"), are a unique repository of documents BSA secretly began amassing shortly after its founding in 1910.

100. The I.V. files reveal that BSA, far from being safe and wholesome, has long attracted and been a sanctuary for pedophiles.

101. The I.V. files contain internal memoranda demonstrating BSA's awareness and concern about the threat that pedophiles in BSA posed to its name, reputation, and economic interests, but little concern for the danger pedophiles presented to scouts and others in the community.

102. BSA's I.V. files are a hidden repository of informative data containing the identities of pedophiles that had successfully infiltrated scouting. The I.V. files highlight BSA's vulnerabilities, including pedophiles' techniques used to enter scouting, pedophiles' patterns for grooming victims, and widely-found biographical and behavioral characteristics shared by pedophiles that had entered or were attempting to enter scouting.

103. The overwhelming evidence the I.V. files present shows that for a century BSA has known of BSA's distinctive characteristics that render scouts particularly prone to pedophiles' abuse.

104. By 1935, BSA had accumulated approximately 2,000 files on pedophiles that had successfully infiltrated or attempted to infiltrate its program.

105. In the 1970s, BSA recognized the potential liabilities represented by possessing and maintaining the I.V. files. By 2005, BSA's secret cache of files on pedophiles exceeded 20,000.

106. Over the course of two years in the early 1970s, three BSA executives reviewed and permanently destroyed thousands of I.V. files.

107. BSA executives kept no retention logs showing which or how many of the files BSA destroyed. BSA made no contemporaneous record of its criteria in determining which files to destroy and which to save.

108. Approximately 6,000 files survived BSA's file-purge and are in BSA's possession. Approximately 1900 of those files are now in the public domain.

109. The files demonstrate that BSA opened a new I.V. file on a pedophile every other day for fifty years.

110. The I.V. files demonstrate that BSA had overwhelming evidence (1) that scouting attracts pedophiles at an alarming rate and (2) of scouting's distinctive characteristics that make it attractive to pedophiles, including:

- (a) Scouting provides a pedophile access to boys alone and away from their parents in secluded settings like camp-outs and overnight hikes;
- (b) Scouting provides opportunities for a pedophile to seduce a boy by getting him in situations where the boy has to change clothing or spend the night with him;
- (c) A pedophile scout leader can, depending on the pedophile's preferred victim age, volunteer for and be sure to have access only to boys of a certain age;
- (d) BSA conditions boys to the concept of strict obedience to the scout leader and a bonding mechanism that pedophiles crave;
- (e) BSA promotes the idea of secret ceremonies, rituals, and loyalty oaths, all of which help facilitate a pedophile's efforts to keep his victims silent and compliant;
- (f) BSA conducted no criminal background checks on its volunteers;
- (g) BSA did not prohibit adults from sleeping in tents with boys overnight;
- (h) BSA did not prohibit adult leaders from spending time alone with individual scouts;
- (i) BSA did not prohibit adult scout leaders from having contact with scouts outside of authorized scouting activities;
- (j) For decades, BSA re-admitted pedophiles it had previously removed for child abuse after a period of BSA "probation," thereby exposing unsuspecting children to sexual abuse;
- (k) BSA had a practice of not reporting scout abuse incidents to law enforcement;

- (l) BSA had a pattern of reaching an accommodation with a pedophile, in which the pedophile would resign from scouting and the BSA would agree not to report the child sexual abuse to civil authorities;
- (m) BSA refused requests to share its list of known abusers with other youth organizations, knowing that pedophiles it had ejected often joined other youth-serving organizations;
- (n) BSA refused to produce its I.V. files to its review board and scout- safety consultants, who were endeavoring to develop and implement meaningful safeguards and barriers to pedophile infiltration;
- (o) BSA refused to fingerprint, photograph or perform background checks on its adult volunteers, allowing removed pedophiles using an alias to sneak back in to scouting through another troop;
- (p) BSA refused to utilize widely-accepted organizational best practices that would establish reasonable barriers to intrusion by pedophiles;
- (q) BSA refused to educate local councils, staff, and troop leaders regarding the true risks posed by pedophiles to scouts; and
- (r) BSA refused to effectively monitor local councils and troops to ensure that appropriate safeguards were being used in the selection and retention of adult scout leaders.

111. Between 1987 and 2005, BSA settled sixty-one lawsuits in which BSA was allegedly negligent in failing to warn or protect scouts from sexually abusive adult scout leaders.

112. Since 1987, BSA has paid millions of dollars in settlements and verdicts arising from sexual abuse of scouts by scout leaders. Upon information and belief, many of these settlements included confidentiality agreements required by BSA to prevent the abuse's facts and circumstances from becoming public.

113. BSA continues to make false and misleading public statements regarding the risks of sexual abuse in scouting; continues to minimize and downplay the harm of sexual abuse to children in scouting; fails to reach out to provide support and assistance to boys it knows were sexually abused by adult scout leaders; and continues to deny the truth about its historical knowledge of the nature and extent of sexual abuse of scouts by adult scout leaders.

114. BSA failed to establish reasonable safeguards to prevent pedophiles from entering its programs.

115. BSA has known for decades that scouting involved an unreasonably high risk of sexual abuse by adult scout leaders. BSA made repeated false counterfactual claims that the number of pedophiles in scouting was comparatively small, that scouts were reasonably safe from sexual abuse by adult scout leaders, and that BSA is not a magnet for pedophiles, all of which BSA made (1) knowing that the claims were false or (2) with reckless disregard for the truth or falsity.

116. Plaintiff Melvin Novak trusted BSA and reasonably relied upon the BSA's representations that it presented a moral and safe place for boys.

117. Had BSA notified Plaintiff, his parents, civil authorities, or the scouting public of the pervasiveness of sexual abuse by BSA's adult scout leaders, Plaintiff would either not have joined the BSA or been allowed by his parents to join BSA or, if BSA had educated him of the nature of risks of abuse by adult scout leaders, that he would have taken steps to protect himself from the grooming and sexual abuse to which his adult scout leader subjected him.

118. BSA deliberately withheld information from scouts and their parents, including Plaintiff and his parents. The withheld information included: the true nature and extent of pedophilia in scouting; the warning signs of abuse in scouting, of which BSA was aware; and the methods

pedophiles had been using to gain access to scouts, to groom them for abuse, and to keep them silent. BSA's timely communication of this information would have enabled scouts, including Plaintiff, to protect himself from sexual abuse by pedophiles in scouting.

119. BSA had a financial incentive to withhold facts and information about predatory and pedophilic Scoutmasters.

120. Since 1910, BSA has derived millions of dollars per year licensing the rights to its name, emblems, scouting paraphernalia, and BSA-branded merchandise to affiliated scouting organizations throughout the United States and abroad (*See* 36 U.S.C. § 80305). BSA has realized income from these federally-protected assets by marketing them to parents and their children, including then minor-Plaintiff Melvin Novak.

121. BSA's marketing includes encouraging parents to enroll their children in BSA. Enrollment secures parents' and children's commitment to follow a system that encourages parents to entrust their children's health and safety to BSA. This entrustment empowers BSA to secure each child's oath to uphold the "Scout Law," to adopt the "Scout" identity, and to adhere to a system that requires children to engage in activities that expose them to adults and others. This system includes over-night outings, camping events, and trips away from parents. The system is reward-based, obligating the child to purchase emblems, badges, and other Scouting paraphernalia, which in turn creates profit for the federally-chartered organization.

122. In addition to being federally created, federally chartered, and endowed by Congress with exclusive economic rights, BSA is funded by the federal government, private donations, membership dues, corporate sponsors, and special events.

123. BSA is the 18<sup>th</sup> largest nonprofit in the United States, with income exceeding \$780 million dollars a year.

124. BSA receives many federal subsidies, including (1) free access to national forest lands (16 USC § 539f); (2) free use of Defense Department equipment and facilities for BSA Jamborees (10 U.S.C. § 2554); (3) free ground and air transportation, communications, emergency, and technical services from the National Guard (32 U.S.C. § 508); (4) free use of meeting facilities, transportation, and support services at United States military bases worldwide (10 U.S.C. § 2606); (5) free firearms, ammunition, repairs, supplies, and marksmanship training equipment (36 U.S.C. § 40731); and (6) free military surplus (10 U.S.C. Ch. 943) and Department of Agriculture grants (7 U.S.C. § 7630).

125. Based upon the LDS Church's long-standing and close partnership with the BSA, the LDS Church Defendants knew or should have known of the epidemic of pedophiles infiltrating the BSA and BSA's deliberate choice to conceal, mislead, and/or withhold information from scouts and their parents, including Plaintiff and his parents.

126. Upon information and belief, the Boy Scout and/or LDS Church Defendants engaged in a plan of action to cover up incidents of the sexual abuse of minors by Scoutmasters and Youth Leaders and prevent disclosure, prosecution and civil litigation including, but not limited to:

- (a) Failure to report incidents of abuse to law enforcement or child protection agencies;
- (b) Concealment of abuse they had substantiated and failure to seek out and redress the injuries its Scoutmasters and leaders had caused; and
- (c) Failure to advise local scouting agencies of the rampant problem of sexual abuse of scouts by Scoutmasters and leaders and that BSA's system of "Ineligible Volunteer Files" was ineffective at curbing the problem.

127. Based on these actions, the Boy Scout and LDS Church Defendants engaged in fraudulent concealment and are estopped from asserting defense of statute of limitations and/or laches.

128. The above-described conduct of the Boy Scout and LDS Church Defendants was willful and outrageous, was committed in reckless disregard of the probability of causing Plaintiff severe emotional distress, mental anguish, humiliation, and psychological, spiritual, and physical injury and illness, and was otherwise intended to cause injury to then minor-Plaintiff Melvin Novak.

129. Additionally, in doing the acts as described herein, the Boy Scout and LDS Church Defendants were guilty of fraud, oppression, or malice.

130. As a direct and proximate result of the practice of deceit, deception, lies, concealment and fraud by the Boy Scout and LDS Church Defendants, and Defendant Hein, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT II**  
**Civil Conspiracy**  
**(Plaintiff Melvin Novak v. All Defendants)**

131. Plaintiff incorporates all preceding paragraphs of this complaint as if fully set forth herein.

132. The Boy Scout and LDS Church Defendants, by and through their agents and representatives, conspired to cover up incidents of sexual abuse of minors by Scoutmasters, including Defendant Hein, and to prevent disclosure, prosecution and civil litigation including, but not limited to:



- (a) Failure to report incidents of childhood sexual abuse to law enforcement or child protection agencies;
- (b) Denial of abuse BSA had substantiated; aiding criminal child molesters in evading detection, arrest, and prosecution;
- (c) Allowing pedophiles to cross state and international borders for purposes of gaining access to uninformed parents' children, whom they could sexually abuse;
- (d) Failure to warn; and failure to seek out and redress the injuries its adult Scoutmasters had caused.

133. Based on these actions, the Boy Scout and LDS Church Defendants, by and through their agents and representatives, conspired for the unlawful purpose of concealing and suppressing information on the danger and threat that Defendant Hein posed to unsuspecting children, including then minor-Plaintiff Melvin Novak.

134. The Boy Scout and LDS Church Defendants placed their own interests ahead of the protection of children, including then minor-Plaintiff Melvin Novak.

135. The Boy Scout and LDS Church Defendants conspiratorial conduct in concealing the dangers of sexual abuse of Scoutmasters and Youth Leaders, including Defendant Hein, constitutes outrageous or egregious wrongdoing in willful disregard for Plaintiff's rights.

136. As a direct and proximate result of the conspiratorial conduct of the Boy Scout and LDS Church Defendants, and Defendant Hein, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT III**  
**Willful Misconduct, Wanton Misconduct and Reckless Misconduct**  
**(Plaintiff Melvin Novak v. All Defendants)**

137. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

138. The conduct described above shows that the Boy Scout and LDS Church Defendants engaged in willful, wanton, and/or reckless misconduct that reflects its conscious disregard of children's health and safety, including then minor-Plaintiff Melvin Novak, and/or the Boy Scout and LDS Church Defendants' intent to harm.

139. At the very least, the Boy Scout and LDS Church Defendants were recklessly indifferent to injury that would likely result from its acts or omissions. Defendants knew that pedophiles were infiltrating scouting at an alarming rate, and it knew that children would suffer severe damage and harm from being sexually abused as a result of this infiltration.

140. Plaintiff Melvin Novak was a victim of the Boy Scout and LDS Defendants' reckless indifference and/or their willful and wanton misconduct.

141. As a direct and proximate result of the willful, wanton and/or reckless misconduct of the Boy Scout and LDS Church Defendants, and Defendant Hein, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT IV**  
**Intentional Infliction of Emotional Distress**  
**(Plaintiff Melvin Novak v. All Defendants)**

142. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

143. Defendant Hein repeatedly, persistently, and unlawfully sexually abused Plaintiff while Plaintiff was a minor.

144. The sexual abuse of then minor-Plaintiff Melvin Novak by Defendant Hein was unlawful.

145. Defendant Hein engaged in a pattern of intentional and outrageous activity with the plaintiff that was so outrageous in character and so extreme in degree as to go beyond all possible bounds of decency.

146. At all times relevant hereto, Defendant Hein knew or should have known that his conduct would cause then-minor Plaintiff to experience severe emotional distress and mental trauma.

147. The Boy Scout and LDS Church Defendants also knew or should have known that Defendant Hein was a dangerous child molester and sexual predator.

148. The Boy Scout and LDS Church Defendants knew or should have known of Defendant Hein's sexual misconduct and knew or should have known that Defendant Hein's conduct would cause then minor Plaintiff to experience severe emotional distress and mental anguish.

149. The Boy Scout and LDS Church Defendants further knew or should have known that it was substantially certain that the pedophiles, such as Defendant Hein, would continue to sexually abuse children, including the abuse they inflicted upon Plaintiff, if Defendants failed to warn parents or failed

to report the pedophiles to civil authorities and that such abuse would cause severe and emotional distress to then-minor Plaintiff Melvin Novak.

150. The Boy Scout and LDS Church Defendants' conduct was an outrageous violation of societal norms and went so far beyond all possible bounds of decency so as to be regarded as atrocious and utterly intolerable in a civilized community which resulted in severe emotional distress to then-minor Plaintiff Melvin Novak.

151. The Boy Scout and LDS Church Defendants' conduct was a result of a willful, reckless, and outrageous indifference to highly unreasonable risk of harm and a conscious indifference to Plaintiff's health, safety, and welfare.

152. As a direct and proximate result of the intentional conduct of the Boy Scout and LDS Church Defendants, and Defendant Hein, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT V**  
**Negligent Infliction of Emotional Distress**  
**(Plaintiff Melvin Novak v. All Defendants)**

153. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

154. As a direct and proximate result of the negligence of the Boy Scout and LDS Church Defendants, and Defendant Hein, Plaintiff has sustained severe emotional distress, which has required and/or will require him to undergo medical, psychological, mental health and/or psychiatric treatment.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT VI**  
**Assault and Battery**  
**(Plaintiff Melvin Novak v. Defendant Hein)**

155. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

156. Each time that Defendant Hein committed an act of sexual abuse on then-minor Plaintiff as described herein, he did so without consent and committed an unlawful touching of the person of then-minor Plaintiff.

157. As a direct and proximate result of Defendant Hein's unlawful touching of then-minor Plaintiff's person without consent, then-minor Plaintiff Melvin Novak sustained the damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT VII**  
**Negligence**  
**(Plaintiff Melvin Novak v. All Defendants)**

158. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

159. At all times relevant hereto, Defendant Hein was under the direction, supervision and control of the Boy Scout and LDS Church Defendants.

160. The Boy Scout and LDS Church Defendants selected, accepted, ratified, approved and authorized Defendant Hein to serve and act as Youth Leader and Scoutmaster for the benefit of church members of the Marshallton 2nd Ward and Troop 84.

161. Based upon BSA's knowledge or previous incidents involving pedophiles and its knowledge and information regarding pedophiles within its organization, BSA could reasonably foresee future incidents involving pedophile Scoutmasters, volunteers, employees, agents and/or apparent agents, representatives, including Defendant Hein.

162. The Boy Scout and LDS Church Defendants owed a duty to then-minor Plaintiff Melvin Novak to prevent child molesters from serving and acting as Youth Leaders and Scoutmasters with easy access to children.

163. The Boy Scout and/or LDS Church Defendants were negligent in screening, training, hiring, supervising and retaining Defendant Hein as a Scoutmaster and Youth Leader when Defendants knew or should have known that Defendant Hein posed a threat of sexual abuse to children, including, but not limited to, the following:

- (a) Failing adequately to investigate the previous activities of Defendant Hein;
- (b) Failing adequately to investigate the background, character and fitness of Defendant Hein to serve as a Scoutmaster and Youth Leader;
- (c) Failing adequately to investigate and/or inquire into Defendant Hein's criminal background or history;
- (d) Failing adequately to investigate any Defendant Hein's prior relationships with minor children;

- (e) Failing adequately to subject Defendant Hein to adequate and appropriate psychological and mental testing in order to uncover his pedophilic and/or homosexual tendencies and proclivities;
- (f) Failing adequately to supervise and/or monitor properly Defendant Hein's conduct during the time he served as a Scoutmaster and Youth Leader;
- (g) Failing adequately to have in place and/or enforce systems, policies, and/or procedures to detect sexual and/or physical abuse of minor children by Scoutmasters and Youth Leader;
- (h) Failing adequately to have in place and/or force systems, policies, and/or procedures to monitor and supervise Scoutmasters and Youth Leaders who work closely with or come into contact with minor children;
- (i) Allowing Hein to routinely conduct BSA meetings at his home with no other adults present;
- (j) Allowing Hein to travel with children with no other adults present;
- (k) Ignoring warning signs that Hein was using his BSA position to spend hours alone with individual scouts (including Plaintiff) for the purpose of sexually abusing them;
- (l) Failing adequately to discover, investigate, or question the fact that Hein was utilizing scout meetings to engage in improper "grooming" behaviors to sexually desensitize scouts, including Plaintiff;
- (m) Failing adequately to take prompt action to remove Hein as a Scoutmaster and Youth Leader after complaints and/or suspicions of sexual molestation;
- (n) Failing adequately to take action to investigate all adults involved in scouting after notice that other BSA Scoutmasters and Youth Leaders were sexually abusing scouts;
- (o) Failing adequately to adopt or enforce a two-adult rule;
- (p) Failing adequately to conduct criminal background or other background checks on new or existing Scoutmasters, or more carefully screen Scoutmasters and Youth Leaders who did not then have and never had sons in Scouting;
- (q) Failing adequately to timely adopt policies and procedures to protect children;

- (r) Failing adequately to advise parents of statistical data available to BSA from the Ineligible Volunteer Files;
- (s) Failing adequately to advise parents that the I.V. file system of ejection of volunteers as the primary method of protecting Scouts from pedophiles was ineffective;
- (t) Failing adequately to maintain, review and update the Ineligible Volunteer Files;
- (u) Failing adequately to warn parents of information regarding adult Scoutmasters and Youth Leaders and their propensity to engage in inappropriate behavior with scouts;
- (v) Failing adequately to communicate information regarding Scoutmasters, Youth Leaders, employees, volunteers, and/or agents to their operative branches, councils, wards throughout the United States; and
- (w) Failing adequately to require local councils to submit names of leaders, volunteers and employees for cross-checking with the Ineligible Volunteer Files.

164. During all relevant times hereto, Defendant Hein was conducting himself in such a manner and fashion that the Boy Scout and LDS Church Defendants knew or should have known that Defendant Hein had a propensity to commit and engage in sexual misconduct.

165. The Boy Scout and LDS Church Defendants were negligent by failing adequately to supervise the conduct and the activities of Defendant Hein.

166. If the Boy Scout and LDS Church Defendants had properly and adequately supervised the conduct and the activities of Defendant Hein, they would have known or should have known of the misconduct of Defendant Hein, so as to prevent the sexual abuse and infliction of emotional distress on then minor-Plaintiff Melvin Novak.

167. Had the Boy Scout and LDS Church Defendants not acted in such a careless, negligent, and/or reckless manner, they would have known and should have known of the conduct of Defendant



Hein, as described herein, and of his propensity to engage in such activities, such that the Boy Scout and LDS Church Defendants could have prevented the sexual abuse and the infliction of emotional distress on then minor-Plaintiff Melvin Novak.

168. Upon information and belief, the Boy Scout and LDS Church Defendants knew or should have known of Defendant Hein's propensities to have inappropriate conduct, emotional, sexual, and otherwise, with minor children, but failed to take any disciplinary or remedial action to prevent Defendant Hein from having contact with minor children, which failure directly resulted in the sexual abuse of then minor- Plaintiff Melvin Novak.

169. Upon information and belief, the Boy Scout and LDS Church Defendants knew or should have known that Defendant Hein had committed acts of sexual deviance and impropriety upon minor children, but failed to take any remedial or disciplinary measures against Defendant Hein, which failure directly resulted in the sexual abuse of then minor- Plaintiff Melvin Novak.

170. Upon information and belief, the Boy Scout and LDS Church Defendants failed to discipline Defendant Hein for the harmful, illegal, and immoral acts he committed on then-minor Plaintiff and failed to report said acts to the appropriate civil and criminal authorities.

171. The conduct of the Boy Scout and LDS Church Defendants was outrageous, shocking and committed with utter disregard for the welfare of then minor-Plaintiff Melvin Novak.

172. As a direct and proximate result of the negligence of the Boy Scout and LDS Church Defendants, and Defendant Hein, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT VIII**  
**Statutory Violation; Negligence *Per Se***  
**(Plaintiff Melvin Novak v. All Defendants)**

173. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

174. At all times relevant hereto, the Boy Scout and LDS Church Defendants, by and through their agents, volunteers, and/or employees, in the course of their practice and profession, regularly came into contact with children, such as Plaintiff Melvin Novak.

175. The Boy Scout and LDS Church Defendants, as well as defendant Hein, were at all times relevant hereto legally obligated under the “Child Protective Services Law” to report suspected child abuse to the Department of Public Welfare or county child protective service agencies. *See* 11 P.S. § 2201, *et seq.* (repealed); 23 Pa. C.S. § 6301, *et seq.*

176. Defendant Hein’s sexual assault and exploitation of the then-minor Plaintiff violated Pennsylvania’s Child Protective Services Law.

177. Upon information and belief, Defendant Hein’s sexual assault and exploitation of Plaintiff, and violation of Pennsylvania’s Child Protective Services Law, was done with the knowledge and/or acquiescence of the Boy Scout and LDS Church Defendants.

178. Upon information and belief, the Boy Scout and LDS Church Defendants did not report to civil or criminal authorities various allegations of sexual abuse of children by Defendant Hein.

179. As a direct and proximate direct of the failure of the Boy Scout and LDS Church Defendants and Defendant Hein to report to civil or criminal authorities allegations of sexual abuse of minor children by Defendant Hein, then minor- Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT IX**  
**Common Law Duty of Reasonable Care)**  
**(Plaintiff Melvin Novak v. All Defendants)**

180. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

181. The Boy Scout and LDS Church Defendants were obligated to take reasonable care to investigate, supervise, and warn minors and/or their families of the risk of harm occasioned by their contact with Defendant Hein and/or other employees, agents, volunteers and/or servants of the Boy Scout and/or LDS Church Defendants whom the Boy Scout and LDS Church Defendants knew or should have known were sexually abusing minors.

182. Upon information and belief, the Boy Scout and LDS Church Defendants failed to give assistance to victims of sexual abuse.

183. The Boy Scout and LDS Church Defendants, through its agents, servants, representatives, volunteers and/or employees, held themselves out as having control over Defendant Hein and as having the ability to protect minors from inappropriate contact and/or child sexual abuse by Defendant Hein.

184. Upon information and belief, the Boy Scout and LDS Church Defendants engaged in a pattern of inaction or silence when they had an obligation to act or speak.

185. The Boy Scout and LDS Defendants breached their duty of reasonable care as alleged above as follows:

- (a) Ignoring reports of sexual abuse of minors by its Scoutmasters and church leaders;
- (b) Failing to report offending Scoutmasters to the appropriate civil and/or criminal authorities, including the Department of Public Welfare and/or Children and Youth Services;
- (c) Failing to warn minors and their parents, including Plaintiff, of the dangers posed by sexually abusive Scoutmasters and Youth Leaders; and
- (d) Failing to remove or suspend offending Scoutmasters and Youth Leaders, including Defendant Hein, from their duties or otherwise stop them from pursuing sexual assaults on children, including then-minor plaintiff.

186. As a direct and proximate result of the failure of the Boy Scout and LDS Church Defendants and Defendant Hein, to exercise reasonable care, then minor-Plaintiff Melvin Novak was victimized by Defendant Hein and sustained the injuries and damages set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT X**  
**(Breach of Fiduciary Duty)**  
**(Plaintiff v. All Defendants)**

187. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

188. As a result of the affiliation then minor-Plaintiff had with the Boy Scout and LDS Church Defendants, a special fiduciary relationship, of human and spiritual trust, concomitant in loco parentis duties, existed between the Plaintiff and the Boy Scout and LDS Church Defendants.

189. The Boy Scout and LDS Church Defendants were entrusted to with the well-being, care, and safety of the then-minor Plaintiff as a result of his status as a member of boy scout and church member.

190. Under this fiduciary relationship, the Boy Scout and LDS Church Defendants assumed a duty to act in the best interests of Plaintiff, to provide a safe haven, and to ensure the then-minor Plaintiff's physical and emotional care and safety.

191. The Boy Scout and LDS Church Defendants placed Plaintiff in the care of Defendant Hein for the purposes of, *inter alia*, providing Plaintiff with religious instruction, training, spiritual guidance, and counseling. As such, there existed a fiduciary relationship of trust, confidence, and reliance between the Boy Scout and LDS Church Defendants and then minor-Plaintiff Melvin Novak.

192. Plaintiff had a right to rely and did rely upon the representations of the Boy Scout and/or LDS Church Defendants that the Scoutmasters and church leaders, including Defendant Hein, were individuals in good standing and that the Boy Scout and LDS Church Defendants would not tolerate criminal misconduct by its Scoutmasters and Youth Leaders toward children.

193. As asserted herein, Defendant Hein sexually assaulted and molested the then-minor Plaintiff.

194. Upon information and belief, the Boy Scout and LDS Church Defendants and Defendant Hein breached their fiduciary duty through their inaction, manipulation, intimidation,

evasion, intended deception, concealment, undue influence, duress, or otherwise as more fully described and set forth herein, resulting in injury to Plaintiff.

195. As a direct result of the breach of fiduciary duty of the Boy Scout and LDS Church Defendants and Defendant Hein, then minor-Plaintiff Melvin Novak suffered injuries and damages as set forth herein.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**COUNT XI**  
**(Respondeat Superior)**  
**(Plaintiff Melvin Novak v. Boy Scout and LDS Church Defendants)**

196. Plaintiff incorporates by reference all of the allegations set forth above as if fully stated herein.

197. The Boy Scout and LDS Defendants are liable for the sexual abuse of minor plaintiff under the doctrine of respondeat superior.

198. At all times relevant hereto, Defendant Hein held official positions and/or was performing official duties for the Boy Scout and/or LDS Church Defendants, and he was acting as an agent of the Boy Scout and/or LDS Church Defendants.

199. Defendant Hein was at all times under the dominion, authority, and the control of the Boy Scout and/or LDS Church Defendants, and was acting within the scope of his agency and/or employment, when he performed the egregious and despicable acts of sexual depravity upon then-minor Plaintiff.

200. The Boy Scout and/or LDS Church Defendants are vicariously liable as a principals for all torts committed by its agents and/or employees.

WHEREFORE, Plaintiff demands judgment against the Boy Scout Defendants, LDS Church Defendants and Defendant Hein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00) in compensatory damages, punitive damages, costs, and attorneys fees.

**EISENBERG, ROTHWEILER,  
WINKLER, EISENBERG & JECK, P.C.**

By: 

Stewart J. Eisenberg, Esquire  
Dino Privitera, Esquire  
Attorneys for Plaintiff

Date: December 12, 2012

**VERIFICATION**

I, Melvin Novak, having read the attached Civil Action Complaint, verify that the within Civil Action Complaint is based on information furnished to counsel, which information has been gathered by counsel in connection with this lawsuit. The language of the Civil Action Complaint is that of counsel and is not mine. I verify that I have read the within Civil Action Complaint and that it is true and correct to the best of my knowledge, information, and belief. To the extent that the contents of the Civil Action Complaint are that of counsel, I have relied upon counsel in making this verification. This verification is made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Dated: 12/12/12

  
\_\_\_\_\_  
MELVIN NOVAK